

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

RODRICK J. SILAS,) Case No.: 1:17-cv-0703 LJO JLT
Plaintiff,)
v.) SCHEDULING ORDER (Fed. R. Civ. P. 16)
ARGENT MORTGAGE COMPANY, et al.,) Motion for Judgment Deadlines:
Defendants.) Motion: 9/5/2017
) Opposition: 9/26/2017
) Reply: 10/3/2017
) Hearing: 10/17/2017, Courtroom 4
)
) Pleading Amendment Deadline: 1/19/2017

Discovery Deadlines:
Initial Disclosures: 11/1/2017
Non-Expert: 7/2/2018
Expert: 9/10/2018
Mid-Discovery Status Conference:
3/2/2018 at 8:45 a.m.

Non-Dispositive Motion Deadlines:
Filing: 9/18/2018
Hearing: 10/16/2018

Dispositive Motion Deadlines:
Filing: 10/30/2018
Hearing: 12/11/2018

Pre-Trial Conference:
2/5/2019 at 8:30 a.m.
Courtroom 4

Trial: 4/2/2019 at 8:30 a.m.
Courtroom 4
Jury trial: 2-4 days

1 **I. Date of Scheduling Conference**

2 August 18, 2017.

3 **II. Appearances of Counsel**

4 Plaintiff appeared *in pro per*.

5 Kalley Aman appeared on behalf of Defendant

6 **III. Magistrate Judge Consent:**

7 **Notice of Congested Docket and Court Policy of Trailing**

8 Due to the District Judges' heavy caseload, the newly adopted policy of the Fresno Division of
9 the Eastern District is to trail all civil cases. The parties are hereby notified that for a trial date set
10 before a District Judge, the parties will trail indefinitely behind any higher priority criminal or older
11 civil case set on the same date until a courtroom becomes available. The trial date will not be reset to a
12 continued date.

13 The Magistrate Judges' availability is far more realistic and accommodating to parties than that
14 of the U.S. District Judges who carry the heaviest caseloads in the nation and who must prioritize
15 criminal and older civil cases over more recently filed civil cases. A United States Magistrate Judge
16 may conduct trials, including entry of final judgment, pursuant to 28 U.S.C. § 636(c), Federal Rule of
17 Civil Procedure 73, and Local Rule 305. Any appeal from a judgment entered by a United States
18 Magistrate Judge is taken directly to the United States Court of Appeal for the Ninth Circuit.

19 The Fresno Division of the Eastern District of California, whenever possible, is utilizing United
20 States Article III District Court Judges from throughout the nation as Visiting Judges. Pursuant to the
21 Local Rules, Appendix A, such reassignments will be random, and the parties will receive no advance
22 notice before their case is reassigned to an Article III District Court Judge from outside of the Eastern
23 District of California.

24 Therefore, the parties are directed to consider consenting to Magistrate Judge jurisdiction to
25 conduct all further proceedings, including trial. **Within 10 days** of the date of this order, counsel
26 **SHALL** file a consent/decline form (provided by the Court at the inception of this case) indicating
27 whether they will consent to the jurisdiction of the Magistrate Judge.

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1 **IV. Motion for Judgment on the Pleadings Deadlines**

2 Defendant Argent Mortgage Company notified the Court of its intent to file a motion for
3 judgment on the pleadings. Any motion for judgment on the pleadings **SHALL** be filed no later than
4 **September 5, 2017**, and heard no later than **October 17, 2017**, in Courtroom 4 before the Honorable
5 Lawrence J. O'Neill, United States District Court Judge.

6 Plaintiff's opposition to the motion **SHALL** be filed no later than **September 26, 2017**. Any
7 reply by Defendant **SHALL** be filed no later than **October 3, 2017**.

8 **V. Pleading Amendment Deadline**

9 Any requested pleading amendments are ordered to be filed, either through a stipulation or
10 motion to amend, no later than **January 19, 2017**.

11 **VI. Discovery Plan and Cut-Off Date**

12 The parties are ordered to exchange the initial disclosures required by Fed. R. Civ. P. 26(a)(1)
13 on or before **November 1, 2017**.

14 The parties are ordered to complete all discovery pertaining to non-experts on or before **July 2,**
15 **2018**, and all discovery pertaining to experts on or before **September 10, 2018**.

16 The parties are directed to disclose all expert witnesses, in writing, on or before **July 16, 2018**,
17 and to disclose all rebuttal experts on or before **August 13, 2018**. The written designation of retained
18 and non-retained experts shall **be made pursuant to Fed. R. Civ. P. Rule 26(a)(2), (A), (B), and (C)**
19 **and shall include all information required thereunder**. Failure to designate experts in compliance
20 with this order may result in the Court excluding the testimony or other evidence offered through such
21 experts that are not disclosed pursuant to this order.

22 The provisions of Fed. R. Civ. P. 26(b)(4) and (5) shall apply to all discovery relating to experts
23 and their opinions. Experts must be fully prepared to be examined on all subjects and opinions
24 included in the designation. Failure to comply will result in the imposition of sanctions, which may
25 include striking the expert designation and preclusion of expert testimony.

26 The provisions of Fed. R. Civ. P. 26(e) regarding a party's duty to timely supplement
27 disclosures and responses to discovery requests will be strictly enforced.

28 A mid-discovery status conference is scheduled for **March 2, 2018** at 8:45 a.m. before the

1 Honorable Jennifer L. Thurston, U.S. Magistrate Judge, located at 510 19th Street, Bakersfield,
2 California. Counsel SHALL file a joint mid-discovery status conference report one week before the
3 conference. Counsel also SHALL lodge the status report via e-mail to JLTorders@caed.uscourts.gov.
4 The joint statement SHALL outline the discovery counsel have completed and that which needs to be
5 completed as well as any impediments to completing the discovery within the deadlines set forth in this
6 order. Counsel may appear via teleconference by dialing (888) 557-8511 and entering Access Code
7 1652736, provided the Magistrate Judge's Courtroom Deputy Clerk receives a written notice of the
8 intent to appear telephonically no later than five court days before the noticed hearing date.

9 **VII. Pre-Trial Motion Schedule**

10 All non-dispositive pre-trial motions, including any discovery motions, shall be filed no later
11 than **September 18, 2018**, and heard on or before **October 16, 2018**. Non-dispositive motions are
12 heard before the Honorable Jennifer L. Thurston, United States Magistrate Judge at the United States
13 Courthouse in Bakersfield, California.

14 **No motion to amend or stipulation to amend the case schedule will be entertained unless it**
15 **is filed at least one week before the first deadline the parties wish to extend.** Likewise, no written
16 discovery motions shall be filed without the prior approval of the assigned Magistrate Judge. A party
17 with a discovery dispute must first confer with the opposing party in a good faith effort to resolve by
18 agreement the issues in dispute. If that good faith effort is unsuccessful, the moving party promptly
19 shall seek a telephonic hearing with all involved parties and the Magistrate Judge. It shall be the
20 obligation of the moving party to arrange and originate the conference call to the court. To schedule
21 this telephonic hearing, the parties are ordered to contact the Courtroom Deputy Clerk, Susan Hall, at
22 (661) 326-6620 or via email at SHall@caed.uscourts.gov. **Counsel must comply with Local Rule 251**
23 **with respect to discovery disputes or the motion will be denied without prejudice and dropped**
24 **from the Court's calendar.**

25 Counsel and the plaintiff may appear and argue non-dispositive motions via teleconference by
26 dialing (888) 557-8511 and entering Access Code 1652736, provided the Magistrate Judge's Courtroom
27 Deputy Clerk receives a written notice of the intent to appear telephonically no later than five court
28 days before the noticed hearing date.

1 All dispositive pre-trial motions shall be filed no later than **October 30, 2018**, and heard no
2 later than **December 11, 2018**, in Courtroom 4 at 8:30 a.m. before the Honorable Lawrence J. O'Neill,
3 United States District Court Judge. In scheduling such motions, **counsel shall comply with Fed. R.**

4 **Civ. P. 56 and Local Rules 230 and 260.**

5 **VIII. Motions for Summary Judgment or Summary Adjudication**

6 **At least 21 days before** filing a motion for summary judgment or motion for summary
7 adjudication, the parties are **ORDERED** to meet, in person or by telephone, to confer about the issues
8 to be raised in the motion.

9 The purpose of the meeting shall be to: 1) avoid filing motions for summary judgment where a
10 question of fact exists; 2) determine whether the respondent agrees that the motion has merit in whole
11 or in part; 3) discuss whether issues can be resolved without the necessity of briefing; 4) narrow the
12 issues for review by the court; 5) explore the possibility of settlement before the parties incur the
13 expense of briefing a motion; and 6) to develop a joint statement of undisputed facts.

14 The moving party **SHALL** initiate the meeting and **SHALL** provide a complete, proposed
15 statement of undisputed facts **at least five days before** the conference. The finalized joint statement of
16 undisputed facts **SHALL** include all facts that the parties agree, for purposes of the motion, may be
17 deemed true. In addition to the requirements of Local Rule 260, the moving party shall file the joint
18 statement of undisputed facts.

19 In the notice of motion the moving party **SHALL** certify that the parties have met and conferred
20 as ordered above, or set forth a statement of good cause for the failure to meet and confer. **Failure to**
21 **comply may result in the motion being stricken.**

22 **IX. Pre-Trial Conference Date**

23 **February 5, 2019**, at 8:30 a.m. in Courtroom 4 before Judge O'Neill.

24 The parties are ordered to file a **Joint Pretrial Statement pursuant to Local Rule 281(a)(2).**

25 The parties are further directed to submit a digital copy of their pretrial statement in Word format,
26 directly to Judge O'Neill's chambers, by email at LJOorders@caed.uscourts.gov.

27 Counsel and the plaintiff's attention is directed to **Rules 281 and 282 of the Local Rules** of
28 Practice for the Eastern District of California, as to the obligations of counsel in preparing for the pre-

1 trial conference. The Court will insist upon strict compliance with those rules. In addition to the
2 matters set forth in the Local Rules the Joint Pretrial Statement shall include a Joint Statement of the
3 case to be used by the Court to explain the nature of the case to the jury during voir dire.

4 **X. Trial Date**

5 **April 2, 2019**, at 8:30 a.m. in Courtroom 4 before the Honorable Lawrence J. O'Neill, United
6 States District Court Judge.

7 A. This is a jury trial.¹
8 B. Counsels' Estimate of Trial Time: 2-4 days.
9 C. Counsels' attention is directed to Local Rules of Practice for the Eastern District of
10 California, Rule 285.

11 **XI. Settlement Conference**

12 The Court does not set a settlement conference at this time. If the parties agree in the future that
13 the case is in a settlement posture, they may file a joint request for the Court to set a settlement
14 conference. Notwithstanding the provisions of Local Rule 270(b), the settlement conference will be
15 conducted by Magistrate Judge Thurston. The Court deems the deviation from the Local Rule to be
16 appropriate and in the interests of the parties and the interests of justice and sound case management
17 based upon the location of the parties. **If any party prefers that the settlement conference be**
18 **conducted by a judicial officer not already assigned to this case, the joint request for the**
19 **settlement conference should indicate this preference.**

20 **XII. Request for Bifurcation, Appointment of Special Master, or other**

21 **Techniques to Shorten Trial**

22 Not applicable at this time.

23 **XIII. Related Matters Pending**

24 There are no pending related matters.

25 **XIV. Compliance with Federal Procedure**

26 All counsel and the plaintiff are expected to familiarize themselves with the Federal Rules of
27

28 ¹ At the hearing, the defendant indicated it waives a jury. However, the plaintiff demanded a jury in his first amended
complaint. (Doc. 1 at 10)

1 Civil Procedure and the Local Rules of Practice of the Eastern District of California, and to keep
2 abreast of any amendments thereto. The Court must insist upon compliance with these Rules if it is to
3 efficiently handle its increasing case load and sanctions will be imposed for failure to follow the Rules
4 as provided in both the Federal Rules of Civil Procedure and the Local Rules of Practice for the Eastern
5 District of California.

6 **XV. Effect of this Order**

7 The foregoing order represents the best estimate of the court and counsel as to the agenda most
8 suitable to dispose of this case. The trial date reserved is specifically reserved for this case. If the
9 parties determine at any time that the schedule outlined in this order cannot be met, counsel are ordered
10 to notify the court immediately of that fact so that adjustments may be made, either by stipulation or by
11 subsequent status conference.

12 **The dates set in this Order are considered to be firm and will not be modified absent a
13 showing of good cause even if the request to modify is made by stipulation. Stipulations
14 extending the deadlines contained herein will not be considered unless they are accompanied by
15 affidavits or declarations, and where appropriate attached exhibits, which establish good cause
16 for granting the relief requested.**

17 Failure to comply with this order may result in the imposition of sanctions.

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19 IT IS SO ORDERED.

20 Dated: August 18, 2017

/s/ Jennifer L. Thurston
21 UNITED STATES MAGISTRATE JUDGE

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